IMT Nuremberg Archives

H – 1170

International Court of Justice

H1170 – 0002

TRIAL BRIEF

FRANZ VON PAPEN

H1170 - 0003

I N D E X

to Brief on v. Papen.

Para.		Subject	Page
1		Appointments etc.	1
2-3		Introductory	2
	A.	PAPEN USED HIS PERSONAL INFLUENCE TO PROMOTE ACCESSION OF NAZI CONSPIRATORS TO POWER.	
4		His knowledge of Nazi programme and methods	2-3
5-7		Steps by which he joined the conspiracy	3-6
	B.	PAPEN PARTICIPATED IN THE CONSOLIDATION OF NAZI CONTROL.	
8-9		His responsibility for Nazi legislation	6-7
10		Some decrees signed by Papen	7
11		Other legislation of special interest	7
11(a)		The Amnesty	7-8
11(b)		The Civil Service	8
11(c)		The Laender	8-10
12		The Jews	10-11
13		The Catholic Church	11-13
14		Conclusion	14
	C.	PAPEN PROMOTED PREPARATIONS FOR WAR.	
15		His responsibility	14
	D.	PAPEN PARTICIPATED IN POLITICAL PLANNING AND PREPARATION FOR WARS OF AGGRESSION.	
16		General	15
17-22		Austria	15-19

23		Turkey	19

H1170 - 0004

VON PAPEN.

1. HIS APPOINTMENTS ETC.

(a) Awarded the Golden Party Badge by Hitler, at the same time as becoming a member of NSDAP.

2902-PS: Statement of von Papen 13 November 1945.

(b) Member of Reichstag, 1933-1945.

2902-PS

(c) Reich Chancellor, 1 June 1932 to 2 December 1932, resigning on 17th November but continuing to act till 2nd December.

2902-PS

(d) Vice Chancellor, 30 January 1933 to August 1934 (?) (Papen admits holding office only to 30 June 1934, also admits decrees published 1 and 2 August 1934 carry his signature as Vice-Chancellor, but claims this was either mistake or forgery.)

2902-PS

(e) Special Plenipotentiary for the Saar (13 November 1933 to 30 June 1934.)

2902-PS

(f) Negotiator of Concordat with Vatican (concluded 20 July 1933).

2655-PS: Concordat between the Holy See and the German Reich, 1933 Reichsgesetzblatt, Part II, p. 679.

(g) Ambassador to Vienna (26 July 1934 - 4 February 1938), continuing thereafter to participate in arrangements for Berchtesgaden meeting between Hitler and Schuschnigg and in meeting itself.

2902-PS

H1170 - 0005

2. The case against von Papen as set out in Appendix A of the Indictment is under four heads:

A. He promoted the accession of the Nazi conspirators to power.

B. He participated in the consolidation of their control over Germany.

C. He promoted the preparations for war.

D. He participated in the political planning and preparation of the Nazi conspirators for wars of aggression etc.

Broadly speaking the case against von Papen covers the period from 1 June 1932 to the conclusion of the Anschluss in March 1938. Circumstances have not made available to the Prosecution any information upon which the case can be developed regarding his activities in Turkey.

3. In the submission of the Prosecution the keynote to von Papen's activities is that, although perhaps not a typical Nazi, he was a shrewd and unscrupulous political opportunist and ready to fall in with the Nazis when it suited him. He was not unpractised in duplicity, and viewed with apparent indifference the contradictions and betrayals in which his duplicity inevitably involved him.

A. THE DEFENDANT VON PAPEN USED HIS PERSONAL INFLUENCE TO PROMOTE THE ACCESSION OF THE NAZI CONSPIRATORS TO POWER.

4. From the outset von Papen was well aware of the Nazi programme and Nazi methods.

(a) The official NSDAP programme was open and notorious. It had been published in Mein Kampf. For many years it had been published and republished in the Year Book of the NSDAP and elsewhere. The Nazis made no secret of their intention to make it a fundamental law of the State. This has been dealt with in full at an earlier stage of this Trial (see Transcript pages 3-6, 22 November, afternoon session).

H1170-0006

(b) During 1932, von Papen, as Reich Chancellor, was in a particularly good position to understand the Nazi purposes and methods, and in fact he publicly condemned the Nazi menace, For instance, in his Munster speech on 28 August 1932 he declared:

> "The licentiousness emanating from the appeal of the leader of the National Socialist Movement does not comply very well with his claims to governmental power."
>
> "I do not concede him the right to regard the mere minority following his banner solely as the German nation, and to treat all our fellow countrymen as 'free game'."
>
> 3314-PS: Frankfurter Zeitung, 29 August 1932.

and in his Munich speech of the 13th October 1932, he said:

> "In the interest of the entire nation we decline the claim to power by parties which want to own their followers body and soul, and which want to put themselves, as a party or a movement, over and above the whole nation."
>
> 3317-PS: Frankfurter Zeitung, 13 October 1932.

5. Nevertheless, whatever his fundamental political views may have been, he undoubtedly believed, or came to believe, in the basic Nazi objectives. In his letter to Hitler of the 13 November 1932 (which will be quoted more fully later) he wrote of the Nazi movement:

> "So great a national movement, the merits of which for people and country I have always recognised in spite of necessary criticisms."

So variable and so seemingly contradictory were Papen's acts and utterances regarding the Nazis that it is not possible to present the picture of Papen's part in their infamous enterprise unless one reviews the steps by which he entered upon it. It then becomes clear that he threw himself, if not whole-heartedly, yet with cool and deliberate calculation, into the Nazi conspiracy.

6. The steps by which von Papen fell in with the Nazi conspiracy were these:-

(a) As a result of his first personal contact with Hitler, von Papen, as Chancellor, rescinded on 14th June 1932 the decree passed on 13 April 1932 for the dissolution of the Nazi para-military organisations, the SA and SS. He thereby rendered the greatest possible

H1170 - 0007

service to the Nazi Party, inasmuch as it relied upon its para-military organisations to beat the German people into submission.

1932 RGB I, pp. 297-300, para 20 (6).

This was done in pursuance of a bargain which is mentioned in the "Dates from the History of the NSDAP" by Dr. Hans Voltz (a book published with the authority of the NSDAP). Extract from page 41:

> "28th May. In view of the imminent fall of Bruening, at a meeting between the former deputy of the Prussian Centre Party, Franz von Papen, and the Führer in Berlin (first personal contact in Spring 1932); the Führer agrees that a Papen cabinet should be tolerated by the NSDAP provided that the prohibition imposed on the SA, uniforms and demonstrations, be lifted and the Reichstag dissolved".

3463-PS

(b) On the 20 July 1932 he accomplished his famous coup d'état Prussia, which removed the Braun-Severing Prussian Government and united the ruling power of the Reich and Prussia in his own hands as Reich Commissar for Prussia.

D.632: Internationales Biographisches Archiv (von Papen).

This step he regarded as a first step in the policy later pursued by Hitler, of co-ordinating the States with the Reich.

3357-PS: which will be referred to later.

(c) "The Reichstag elections of 31 July, which were the result of von Papen's disbandment of the Reichstag on the 4 June, strengthened enormously the NSDAP so that von Papen offered to the leader of the now strongest party his participation in the Government as Vice-Chancellor. Adolf Hitler rejected this offer on 13 August."

D.632: (Archiv)

(d) "The new Reichstag, which assembled on 30 August, was disbanded on the 12 September. The new elections" on 6 November "brought about a considerable loss to the NSDAP, but did not strengthen the Government parties so that Papen's Government

H1170 - 0008

retired on 17 November 1932 after unsuccessful negotiations with the party leaders."

D.632: (Archiv)

(e) These negotiations, so far as they concerned Hitler, involved an exchange of letters in which von Papen wrote to Hitler on 13 November 1932:

> "A new situation has arisen through the elections of November 6th and at the same time a new opportunity for all nationalist elements to be concentrated anew. The Reichs President has instructed me to find out by conversations with the leaders of the individual parties concerned, whether and how far, they would be prepared to support the carrying out of the political and economic programme on which the Reichs government has embarked. In spite of the national-socialist press calling it a naive attempt for Reichs Chancellor von Papen to confer with the people concerned in the nationalist concentration, and that there can be only one answer, namely: "No negotiations with Papen", I should consider it neglecting my duties and I would be unable to justify it to my own conscience, if I did not approach you in this matter. I am quite aware from the papers, that you are maintaining your demands to be entrusted with the Chancellor's office, and I am equally aware of the continued existence of the reason for the decision of August 13. I need not assure you again that I myself do not come into this matter at all. All the same I feel that the leader of so great a national movement, the merits of which for people and country I have always recognised, in spite of necessary criticisms, should not refuse to enter into discussions on the situation and the decisions required with that German politician, who at present bears the full responsibility. He must attempt to forget the bitterness of the elections and to place the welfare of the country, which we both of us serve, above all other considerations."

D.633

Hitler replied, on the 16 November 1932, in a long letter laying down terms which were evidently unacceptable to von Papen, since he resigned next day.

D.634

(f) Then came the meetings between Papen and Hitler in January 1933 in the houses of von Schroeder and Ribbentrop, culminating in von Schleicher being succeeded by Hitler as Reich Chancellor on 30 January 1933.

H1170 – 0009

"The meeting with Hitler which took place at the beginning of January 1933 in the house of the banker, Baron von Schröder, in Cologne is due to his iniative although von Schröder was the mediator. Both von Papen and Hitler later made public statements about this meeting (Press of 6 January 1933). After the rapid downfall of von Schleicher on 28 January 1933, the Hitler-von Panen - Hugenberg - Seldte cabinet was formed on 30 January 1933 as a Government of national solidarity. In this cabinet von Papen held the office of Vice-Chancellor and Reich Commissar for Prussia. This Government issued on 1 February, a proclamation to the German people."

D.632: (Archiv)

"At the time of the final struggle for power in the Reich, Ribbentrop played an important, if not strikingly obvious part in the bringing about of the decisive meetings between the representatives of the president of the Reich and the heads of the NSDAP, who had prepared the entry of Nazis into power on 30.1.1933. Those meetings as well as those between Hitler and von Papen took place in Ribbentrop's house in Berlin Dahlem."

D.472: Internationales Biographisches Archiv (Ribbentrop).

7. The defendant von Papen was now completely committed to going along with the Nazi Party.

B. THE DEFENDANT VON PAPEN PARTICIPATED IN THE CONSOLIDATION OF NAZI CONTROL OVER GERMANY.

8. In the first critical year and a half of the Nazi consolidation von Papen, as Vice-Chancellor, was second only to Hitler in the cabinet which carried out the Nazi programme.

9. The process of consolidating the Nazi control of Germany by legislation has been fully dealt with earlier in this Trial (see Transcript page 22 of 22 November afternoon to page 268). The high position of von Papen must have associated him closely and directly with such legislation, at any rate up to August 1934 after which his appointments took him outside Germany. The particular mechanics of the Nazi legislation, and the responsibility of the Nazi cabinet for it, have

H1170 - 0010

been dealt with by the United States Prosecution in that part of the case which relates to the Reich cabinet.

10. Three decrees may however be specially mentioned again as actually bearing the signature of von Papen.

(a) The law concerning the Sovereign Head of the German Reich, dated 1 August 1934.

1934 RGB I, p. 747; 2003-PS: (Transcript page 28 of 22 November afternoon).

This was the decree merging the offices of President and Chancellor, which had the important consequence of giving Hitler the Supreme Command of the German Armed Forces.

(b) The decree relating to the formation of Special Courts, dated 21 March 1933, for trial of all cases involving political matter.

1933 RGB I, p. 136; 2076-PS: (Transcript page 30 of 22 November afternoon).

This decree was the first step in the Nazification of the German judiciary. In all political cases it abolished rights, including the right of appeal, which had previously characterised the administration of German justice.

(c) On the same date, 21 March 1933, von Papen personally signed the amnesty decree liberating all persons who had committed murder or any other crime between 30 January and 21 March 1933, against the anti-Nazi politicians, writers and Reichstag deputies.

1933 RGB I, p. 134; 2059-PS: (Transcript page 30 of 22 November afternoon).

11. It is illuminating also to see how von Papen was content to swallow his own words in regard to certain pieces of Nazi legislation enacted during his Vice Chancellorship.

(a) The Amnesty Decree, for instance, is hardly in keeping with his Munster speech of 28 August 1932, when he said (referring

H1170 - 0011

to Hitler):

> "I am advocating the constitutional state, the community of the people, law and order in government. In doing so, it is I, and not he, who is carrying on the struggle against the domination of parties, against arbitrarianism and injustice, a struggle which millions of his supporters had been wholeheartedly longing for years to fight."

3314-PS: Frankfurter Zeitung, 29 August 1932.

(b) As a public servant himself von Papen must have had a hard struggle with his conscience when associating himself with the sweeping series of decrees for attaining totalitarian control of the civil service (see Transcript page 30 of 22 November, afternoon, and page 257). At the first meeting of Hitler's cabinet on 30 January 1933, he had

> "suggested that the Reich Chancellor in an interview should state at the earliest opportunity that the rumours about the danger of inflation and the rumours about the danger to the rights of civil servants are untrue".

351-PS: Minutes of Cabinet Meeting, 30 January 1933.

(c) The decrees for the integration of the States (Laender) with the Reich have been dealt with earlier in the Trial (Transcript page 29 of 22 November afternoon). The substantial effect of these decrees was to abolish the States and to put an end to federalism and any possible retarding influence which it might have upon the centralisation of power in the Reich cabinet. The importance of this step - as well as the role played by Papen - is reflected in the exchange of letters between the Reich President Hindenburg, the Defendant von Papen in his capacity as Reich Commissar for Prussia, and Reichs Minister Göring in connection with the recall of the Reich Commissar and the appointment of Göring to the post of Minister President of Prussia. In tendering his resignation, on 7 April 1933, Defendant von Papen wrote to Hitler:

H1170 - 0012

"With the draft of the law for the co-ordination of the States with the Reich, passed today by the Reich Chancellor, legislative work has begun which will be of historical significance for the political development of the German state. The step taken by the Reich Government, which I headed at the time, is now crowned by this new inter-locking of the Reich. You, Herr Reich Chancellor, will now, as once Bismarck, be able to co-ordinate in all points the policy of the greatest of German states with that of the Reich. Now that the new law enables you to appoint a Prussian Prime Minister I ask you to inform the Reich President that I return to his hands my post of Reich Commissar for Prussia."

In transmitting this resignation request to President Hindenburg, Hitler stated:

"Vice-Chancellor von Papen has sent a letter to me which I enclose for your information. Herr von Papen already informed me within the last few days that he agreed with Minister Göring to resign on his own volition, as soon as the unified conduct of the governmental affairs in the Reich and in Prussia would be assured by the new law on co-ordination of policy in the Reich and the States (Laender).

On the eve of the day when the new law on the institution of Reich governors (Reichs-Statthalter) was adopted, Herr von Papen considered this aim as having been attained and he requested of me to undertake the appointment of the Prussian Prime Minister, when at the same time he would offer his full time services in the Reich Government.

Herr von Papen, in accepting the commission for the Government of Prussia, in these difficult times since 30 January, has rendered a very meritorious service to the realisation of the idea of co-ordinating the policy in the Reich and the States (Laender). His collaboration in the Reich cabinet, for which he now offers all his strength, is infinitely valuable; my relationship to him is such a heartily friendly one, that I sincerely rejoice at the great help I shall thus receive."

With profound reverence,

ADOLF HITLER.

3357-PS: Exchange of letters, 7 & 10 April 1933, Dokumente der Deutschen Politik, Vol. I, p. 158.

Yet it was only five weeks before this that on 3 March 1933 von Papen had warned the electorate at Stuttgart:

"Federalism will protect us from centralism, that organisational form which focuses all living strength of a nation like a burning mirror on to one point. No

H1170 - 0013

nation is less adaptable to being governed centralistical than the German nation."

3313-PS: von Papen's "Appel an das Deutsche Gewissen", pp. 67 - 8.

At the time of the elections in the Autumn of 1932, von Papen, as Chancellor, visited Munich. The Frankfurter Zeitung of the 12 October 1932 commented on his policy as follows:

"von Papen claimed that it had been his aim from the very beginning of his tenure in office to build a new Reich for and with the various States (Laender). The Reich government is taking a definite federalist attitude. Its slogan is not a dreary centralism or unitarianism".

x x x

"Wherever one did hear von Papen express himself in public, one did hear a Chancellor who took special care to be regarded as an unconditional federalist."

3318-PS: Article on von Papen's Munich visit of 11 October 1932.

12. In March 1933 the entire cabinet approved a systematic state policy of persecution of the Jews. This has already been described to the Tribunal (see Transcript page 1442 and also the case against Streicher). Only four days before the boycott was timed to begin ("with all ferocity", to borrow the words of Dr. Goebbels), von Papen wrote a letter of re-assurance, confirming a previous telegram, to the Board of Trade for German-American Commerce in New York, who had expressed their anxiety to the German Government about the situation. His assurance which was published in the New York Times on 28 March 1933, contained the following sentence:

"Reports circulated in America and received here with indignation about alleged tortures of political prisoners and mistreatment of Jews deserve strongest repudiation. Hundreds of thousands of Jews irrespective of nationality, who have not taken part in political activities, are living here entirely unmolested."

D-635

To put it at its best, this was a white lie of the first magnitude.

H1170 - 0014

13. The Catholic Church (see also U.S. Trial Brief H and Supplementary Brief H).

(a) In one particular field von Papen, the prominent lay Catholic, helped to consolidate the Nazi position as perhaps nobody else could have done, namely in its relationship with the Catholic Church.

(b) When the Nazis seized control of Germany their relations with the Church were at a low ebb. The minutes of the Reich cabinet meeting of 15 March 1933, contain the following paragraph in connection with discussions on the Enabling Act:

> "The Vice-Chancellor and Reich Commissar for the State of Prussia said it is of decisive importance to integrate into the new State the masses standing behind the Parties. He said that the question of coordination of political Catholicism into the new State is of special importance."

2962-PS: Minutes of the Conference of Ministers, 15 March 1933.

(c) Eight days later, therefore, speaking at the second meeting of the Reichstag of 1933, on 23 March 1933, asking for adoption of the Enabling Act, Hitler declared:

> "While the government is determined to carry through the political and moral purging of our public life, it is creating and insuring prerequisites for a truly religious life. The government sees in both Christian confessions the factors most important for the maintenance of our Folkdom. It will respect agreements concluded between them and the States. However, it expects that its work will meet with a similar appreciation. The government will treat all other denominations with equal objective justice. However, it can never condone that belonging to a certain denomination or to a certain race might be regarded as a licence to commit or tolerate crimes. The Government will devote its care to the sincere living together of Church and State.

3387-PS: Hitler Reichstag Speech, 23 March 1933, quoted in Voelkischer Beobachter, 24 March 1933, p. 1.

H1170-0015

(d) The immediate effect of this assurance was action by the conference of German bishops, meeting as usual in Fulda, on 28 March 1933, lifting restrictions imposed on members of the church adhering to the Nazi movement. In a cautious statement which placed full faith and credit in the Papen-inspired Hitler assurances, the bishops declared:

> "The high shepherds of the dioceses of Germany in their dutiful anxiety to keep the Catholic faith pure and protect the untouchable aims and rights of the Catholic Church have adopted, for profound reasons, during the last years, an oppositional attitude toward the National Socialist movement, through prohibitions and warnings, which was to be in effect as long and as far as those reasons remained valid.
>
> It must now be recognized that there are official and solemn declarations issued by the highest representative of the Reich Government - who at the same time is the authoritarian leader of that movement - which acknowledge the inviolability of the teachings of Catholic faith and the unchangeable tasks and rights of the church, and which expressly assure the full value of the legal pacts concluded between the various German States (Laender) and the Church.
>
> Without lifting the condemnation of certain religious and ethical errors implied in our previous measures, the Episcopat now believes it can entertain the confidence that those prescribed general prohibitions and warnings may not be regarded as necessary any more".

3389-PS: Fulda Declaration of 28 March 1933, Voelkischer Beobachter, 29 March 1933, p. 2.

(e) On 20 July 1933, the Reich Concordat with the Vatican was signed by von Papen. This was an international treaty which purported to give the church a guarantee of all the church rights it had sought; freedom for Catholic organisations, maintenance of parochial schools and preservation of the general influence of the church on the education of the German Catholic youth.

2655-PS: Concordat between the Holy See and the German Reich, 1933 RGB II, p. 679.

H1170-0016

(f) The signing of the Concordat was, however, only an interlude in the Church policy of the Nazi conspirators, a policy of re-assurances followed by a long series of violations which were to commence almos immediately and eventually to result in Papal denunciation.

3280-PS: "Mit brennender Sorge", Encyclical of Pope Pius XI, 14 March 1937.

(g) The characteristic development of the conspirators' Church policy - and von Papen's participation in it - is further revealed by his action of 19 September 1934, when, as president of the Union of Catholic Germans (Arbeitsgemeinschaft Katholischer Deutscher), he ordered dissolution of this organisation. By this time the Nazis were dropping all pretence that rival organisations might be permitted to exist, and the Nazi conspirators were well advanced in their plans for the integration of all German institutions into the Nazi system. The official published announcement of dissolutio is a revealing document:

"Since the Reich Party Leadership through its department for spiritual peace increasingly and immediately administers all cultural problems and those concerning the relationship of State and Churches, the tasks at first delegated to the Union of Catholic Germans are now included in those of the Reich Party Leadership in the interest of a stronger coordination.

Vice-Chancellor von Papen, up to now the Leader of the Union of Catholic Germans, declared about the dissolution of this organisation that it was done upon his suggestion, since the attitude of the national socialist State toward the Christian and Catholic Church had been explained often and unequivocally through the Leader and Chancellor himself."

3376-PS: Das Archiv, VI, pp. 767-768.

What were the terms of the explanation so unequivocally given by the Leader and Chancellor, von Papen did not say, but the real attitude of the Nazi state towards the church has already been shown in grim detail earlier in the Trial (see Transcript pages 33 & 34 of 22 November, afternoon).

14. After nine months' service under Hitler spent in consolidating the Nazi

H1170 - 0017

control, von Papen was evidently well content with his lot. On 2 November 1933, speaking from the same platform with Hitler and Gauleiter Terboven, in the course of the campaign for the Reichstag election and the referendum concerning Germany's leaving of the League of Nations, he declared:

> "Ever since Providence called upon me to become the pioneer of national resurrection and the rebirth of our homeland, I have tried to support with all my strength the work of the national socialist movement and its leader; and just as I at the time of taking over the Chancellorship have advocated to pave the way to power for the young fighting liberation movement, just as I on January 30 was selected by a gracious fate to put the hands of our Chancellor and Führer into the hand of our beloved Field Marshal, so do I today again feel the obligation to say to the German people and all those who have kept confidence in me:
>
> > The kind Lord has blessed Germany by giving it in times of deep distress a leader who will lead it, through all distresses and weaknesses, through all crisis and moments of danger, with the sure instinct of the statesman into a happy future."
>
> "Let us in this hour say to the Führer of the new Germany that we believe in him and his work."

3375-PS: Papen Essen speech, 2 November 1933, quoted in Voelkischer Beobachter, South German ed., p. 10.

By this time, the cabinet of which Defendant Papen was a member had abolished the civil liberties, had sanctioned political murder committed in aid of Nazism's seizure of power, had substituted itself for the Reichstag as Germany's supreme law-making authority, had destroyed all rival political parties, had enacted the basic laws for abolition of the political influence of the Laender, had provided the legislative basis for purging the Civil Service and judiciary of anti-Nazi elements, had embarked upon a state policy of persecution of the Jews, had gone far in legislating Nazi influence into the cultural life of the German nation, and had taken its first steps toward conferring a para-governmental status upon the Nazi party and its principal formations.

C. THE DEFENDANT VON PAPEN PROMOTED PREPARATIONS FOR WAR.

15. Knowing as he did, the basic programme of the Nazi party it is inconceivable that as Vice-Chancellor for a year and a half he could have been dissociated from the conspirators' war-like preparations.

H1170 - 0018

D. VON PAPEN PARTICIPATED IN THE POLITICAL PLANNING AND PREPARATION FOR WARS OF AGGRESSION.

GENERAL.

16. As Vice-Chancellor for the first year and half of the Nazi regime, and as a prominent advisor of Hitler's, von Papen undoubtedly participated in the planning and preparations for foreign aggression. This was admitted by him to Mr. Messersmith in Vienna in 1934. The relevant portion of Mr. Messersmith's affidavit (which is already in evidence 1760-PS, U.S.67) will be referred to in connection with von Papen's activities in Austria.

AUSTRIA.

17. The planning and execution of the conspiracy against Austria has been dealt with in great detail by Mr. Alderman (Transcript pages 446-591) and in the course of the evidence which he laid before the Court, von Papen's part in that aggression was clearly shown. It is, however, convenient to summarise this again shortly.

18. After the murder of Chancellor Dollfuss on 25 July 1934, the situation was such as to call for the removal of the German Minister Rieth, and for the prompt substitution of a man who was an enthusiast for Anschluss with Germany, who could be tolerant of Nazi objectives and methods, but who could lend an aura of respectability to official German representation in Vienna (Transcript pages 478-489). Hitler's reaction was immediate. He chose his man as soon as he heard the news of the Dollfuss murder. The very next day, 26 July 1934, he sent von Papen a letter of appointment. This letter (which was, of course, made public) was in itself a masterpiece of deceit calculated to conceal completely the real intention of Papen's appointment. It is convenient to quote again certain passages:

> "The assassination of the Austrian Federal Chancellor which was strongly condemned and regretted by the German Government has made the situation in Europe, already fluid, more acute, without any fault of ours. Therefore, it is my desire to bring about if possible an easing of the general situation, and especially to direct the relations with the German-Austrian State, which have

H1170-0019

been so strained for a long time, again into normal and friendly channels.

For this reason, I request you, dear Mr. von Papen, to take over this important task, just because you have possessed and continue to possess my most complete and unlimited confidence ever since we have worked together in the Cabinet."

* * * *

"Thanking you once more for all that you once did for the co-ordination of the Government of the National Revolution and since then together with us for Germany, I remain,

ADOLF HITLER.

2799-PS: Letter, Hitler to Papen, 26 July 1934, 1934 Dokumente der Deutschen Politik, II, p. 83. (Transcript pages 479, 483-6.)

The actual mission of von Papen was stated more frankly, shortly after his arrival in Vienna, in the course of a private conversation with the American Minister, Mr. Messersmith, who has described this meeting as follows:

"When I did call on von Papen in the German Legation, he greeted me with 'Now you are in my Legation and I can control the conversation'. In the baldest and most cynical manner he then proceeded to tell me that all of South-eastern Europe, to the borders of Turkey, was Germany's natural hinterland, and that he had been charged with the mission of facilitating German economic and political control over all this region for Germany. He blandly and directly said that getting control of Austria was to be the first step. He definitely stated that he was in Austria to undermine and weaken the Austrian Government and from Vienna to work towards the weakening of the Governments in the other states to the South and South East. He said that he intended to use his reputation as a good Catholic to gain influence with certain Austrians, such as Cardinal Innitzer, towards that end".

1760-PS (U.S. 57): Affidavit of George S. Messersmith, 28 August 1945, p. 9. (Transcript pages 490-1).

19 (a) Throughout the earlier period of his mission to Austria, von Papen's activity was characterised by the assiduous avoidance of any appearance of intervention. His true mission was re-affirmed with clarity several months after its commencement, when he was instructed by Berlin that "during the next two years nothing can be undertaken which will give Germany external political difficulties", and that every appearance of German interference in Austrian affairs

H1170 - 0020

must be avoided. As von Papen himself stated to Berger-Waldeneg, the Austrian Foreign Minister: "Yes, you have your French and English friends now and you can have your independence a little longer."

1760-PS (U.S.57): Affidavit of George S. Messersmith, 28 August 1945, pp. 8 & 11. (Transcript pp. 492, 506-7).

(b) Throughout this period, the Nazi movement was gaining strength in Austria without openly admitted German intervention, and Germany needed more time to consolidate its diplomatic position. -- These reasons for German policy were frankly expressed by the German Foreign Minister von Neurath in conversation with the American Ambassador to France.

L.150: (U.S.65): Memorandum of Conversation between Ambassador Bullitt and von Neurath, 18 May 1936. (Transcript p. 520).

(c) The Defendant von Papen accordingly restricted his public activity to the normal ambassadorial function of cultivating all respectable elements in Austria and ingratiating himself in these circles:

1760-PS (U.S.57): Affidavit of George S. Messersmith, 28 August 1945, pp. 10-11.

(d) Meanwhile, the Austrian Nazis continued illegal organisation in anticipation of the possibility of securing their objectives by force if necessary. In these efforts they were aided from within Germany.

812-PS (U.S.61): Report of Gauleiter Rainer to Reichskommissar Gauleiter Beurckel, 6 July 1939. Report of events in the NSDAP in Austria from 1933 to 11 March 1938. (Transcript pp. 497-8).

(e) Despite his facade of strict non-intervention, von Papen remained in contact with subversive elements in Austria. Thus, in a report to Hitler dated 17 May 1935, he advised concerning Austrian

H1170 - 0021

Nazi strategy as proposed by Captain Leopold, Leader of the illegal Austrian Nazis, the object of which was to trick Dr. Schuschnigg into establishing an Austrian coalition government with the NSDAP.

2247-PS: (U.S.64): Letter from von Papen to Hitler, 17 May 1935, p. 2. (Transcript pp. 516-8).

20. Eventually the agreement of 11 July 1936 between Germany and Austria was negotiated by von Papen.

T.C.22: (G.B.20)

The public form of this agreement provides that while Austria, in her policy, should regard herself as a German state, yet Germany would recognise the full sovereignty of Austria and would not exercise direct or indirect influence on the inner political order of Austria. More interesting was the secret part of the agreement, revealed by Mr. Messersmith, which ensured the Nazis an influence in the Austrian cabinet and participation in the political life of Austria.

1760-PS (U.S.57): Mr. Messersmith's Affidavit, p. 12 (Transcript p. 522).

21. The Defendant von Papen continued to pursue his policy by maintaining contact with the illegal Nazis, by trying to influence appointments to strategic cabinet positions, and by attempting to secure official recognition of Nazi front organisations. Reporting to Hitler shortly after the agreement of 11 July 1936, he summarised his programme for normalising Austro-German relations in pursuance of the agreement. Two sentences from his report may be quoted:

> "As a guiding principle (Marschroute) I recommend on the tactical side, continued, patient psychological manipulations, with slowly intensified pressure directed at changing the regime ....In discussion with government officials as well as with leaders of the illegal party (Leopold and Schattenfreh) who conform completely with the concordat of July 11, I am trying to direct the next developments in such a manner to aim at corporative representation of the movement in the Fatherland Front (Vaterländischen Front) but nevertheless refraining from putting National-Socialists in important positions for the time being."

2246-PS (U.S.67): Report of von Papen to Hitler, 1 September 1936 (Transcript pages 527-9).

H1170-0022

22. There is no need to go over again the events which led up to the meeting of Schuschnigg with Hitler in February 1938, which von Papen arranged, and to the final invasion of Austria in March 1938. It is enough to quote from the Archiv (D.632).

> "After the events of March 1938 which caused Austria's incorporation into the German Reich, von Papen had the satisfaction to be present at the Führer's side when the entry into Vienna took place, having just been admitted on 14 February 1938 into the Party in recognition of his valuable collaboration and having received the Golden Party Badge from the Führer."

23. The Archiv continues:

> "At first, von Papen retired to his estate Wallerfangen in the Saar district but soon the Führer required his services again in that he on the 18 April 1939, appointed von Papen German Ambassador in Ankara .....
> After his return to the Reich, von Papen was awarded the Knight's cross of the War Merit Order with Swords."

H-1170

Filed Jan. 5, 1946
9438

INTERNATIONAL MILITARY TRIBUNAL

Jan 5/46

BRITISH TRIAL BRIEF

FRANZ v. PAPEN

Franz v. Papen

H1170-0023